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07 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 JUAN D. VEGA, JR.,) Case No. C07-1183-JCC
09)
10 Plaintiff,)
11 v.)
12 UNITED STATES OF AMERICA,) ORDER OF DISMISSAL
13 Defendant.)
_____)

14 The Court, having reviewed Plaintiff's complaint in this Federal Tort Claims Act
15 action, together with all materials in support of those documents, Defendant's Motion to
16 Dismiss, the Report and Recommendation ("R&R") of United States Magistrate Judge James
17 P. Donohue, the governing law and balance of the record, does hereby find and rule as follows.

18 On July 21, 2008, United States Magistrate Judge James P. Donohue issued a Report
19 and Recommendation on Defendant's motion to dismiss, and notified Plaintiff that he had
20 twenty-one days to file any objections before this Court would decide whether to adopt it.
21 (Dkt. No. 16.) Plaintiff, proceeding *pro se*, requested a 45-day extension of time to file
22 objections to the R&R. (Dkt. No. 18.) The Government did not oppose the request, and the
23 Court granted the request, setting the noting date for the Court's consideration of Plaintiff's
24 objections for September 25, 2008. (August 6, 2008, Minute Order (Dkt. No. 20).) On
25 September 8, 2008, Plaintiff filed a "Response to Court's Minute Order" (Dkt. No. 21), stating
26 that he did not have access to a law library, and asked for the "protection of this Court." The

01 Government responded that to the extent that Plaintiff's Response is another request for an
02 extension of time, it does not object. (Dkt. No. 22.) However, the Government stated, to the
03 extent that Plaintiff's Response is construed as Plaintiff's Objections, the Government reasserts
04 the arguments made in its motion to dismiss. (*Id.*)

05 The Court would normally be inclined to grant Plaintiff another extension of time.
06 However, after reviewing the R&R, it is clear to the undersigned that the Court lacks subject
07 matter jurisdiction over this matter. Plaintiff's claim against the United States of America for
08 the loss of his Rolex watch is barred by the "detention of goods" exception to the Federal Tort
09 Claims Act, 28 U.S.C. § 2680(c). "If the court determines at any time that it lacks subject-
10 matter jurisdiction, the Court must dismiss the action." FED. R. CIV. P. 12(h)(3). Therefore, the
11 Court cannot grant Plaintiff another extension and must dismiss the action. Accordingly, the
12 Court ORDERS:

- 13 (1) The Court adopts the Report and Recommendation.
- 14 (2) Defendant's Motion to Dismiss (Dkt. No. 12) is GRANTED and plaintiff's
15 Complaint (Dkt. No. 3) is DISMISSED with prejudice.
- 16 (3) The Clerk of Court is directed to send copies of this Order to the parties and to
17 Judge Donohue.

18 DATED this 25th day of September, 2008.

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21 JOHN C. COUGHENOUR
22 United States District Judge
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